

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2129
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 4326

12 **ELIZABETH SUZANNE HARRIS**
13 **2743 Saint Giles Lane**
Mountain View, CA 94040

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **97382**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about March 15, 2010, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 97382 to Elizabeth Suzanne Harris (Respondent). The Pharmacy
23 Technician Registration expired on March 31, 2012, and has not been renewed.

24 ///

25 ///

26 ///

27
28

1 **JURISDICTION**

2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code (Code) unless otherwise indicated.

5 4. Code section 118, subdivision (b), provides that the suspension, expiration, surrender,
6 or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
7 disciplinary action during the period within which the license may be renewed, restored, reissued
8 or reinstated.

9 **STATUTORY PROVISIONS**

10 5. Code section 4022 states:

11 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
12 self use, except veterinary drugs that are labeled as such, and includes the following:

13 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
14 without prescription," "Rx only," or words of similar import.

15 (b) Any device that bears the statement: "Caution: federal law restricts this
16 device to sale by or on the order of a _____," "Rx only," or words of similar
17 import, the blank to be filled in with the designation of the practitioner licensed to use
18 or order use of the device.

19 (c) Any other drug or device that by federal or state law can be lawfully
20 dispensed only on prescription or furnished pursuant to Section 4006.

21 6. Code section 4059 states, in part, that a person may not furnish any dangerous drug
22 except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

23 7. Code section 4300 states, in part:

24 (a) Every license issued may be suspended or revoked.

25 (b) The board shall discipline the holder of any license issued by the board,
26 whose default has been entered or whose case has been heard by the board and found
27 guilty, by any of the following methods:

28 (1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper . . .

8. Code section 4301 states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

...

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

...

(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.

9. Health and Safety Code section 11171 provides that no person shall prescribe, administer, or furnish a controlled substance except under the conditions and in the manner provided by the state Uniform Controlled Substances Act, Health and Safety Code section 11000 et seq.

10. Health and Safety Code section 11173, subdivision (a), provides, in part, that no person shall obtain, or attempt to obtain controlled substances by fraud, deceit, misrepresentation, or subterfuge.

COST RECOVERY

11. Code section 125.3 states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

1 **FACTUAL STATEMENT**

2 12. From on or about May 23, 2011 through July 21, 2011, Safeway Pharmacy (Safeway)
3 in Mountain View, California employed Respondent as a pharmacy technician

4 13. While employed as a pharmacy technician, Respondent diverted controlled
5 substances and dangerous drugs from the pharmacy supply, including hydrocodone/
6 acetaminophen. The exact quantities of the drugs diverted and the dates of diversion are
7 unknown.

8 14. Respondent admitted to diverting 5 tablets of hydrocodone/ acetaminophen 325 mg /5
9 mg from Safeway during the approximate dates of May 23, 2011 through July 21, 2011.

10 15. On or about July 21, 2011, Safeway terminated Respondent for stealing grocery and
11 pharmacy items.

12 **DRUG**

13 16. Hydrocodone/acetaminophen was and is the generic name for the trade name drug
14 Vicodin, which is designated as a narcotic drug and a Schedule III controlled substance by Health
15 and Safety Code section 11056, subdivision (e)(4), and as a dangerous drug by Business and
16 Professions Code section 4022. Hydrocodone/acetaminophen is used as a narcotic analgesic to
17 relieve pain.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct - Commission of Acts of Dishonesty)**

20 17. Respondents' license is subject to discipline for unprofessional conduct under Code
21 section 4301, subdivision (f), because she committed acts involving moral turpitude, dishonesty,
22 fraud, deceit, or corruption in that she stole and diverted numerous controlled substances and
23 dangerous drugs during her employment with Safeway, as set forth in paragraphs 12 through 15,
24 above.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct - Violating State Statutes re: Controlled Substances)**

27 18. Respondent's license is subject to discipline for unprofessional conduct under Code
28 section 4301, subdivision (j), for violating state statutes regulating controlled substances and

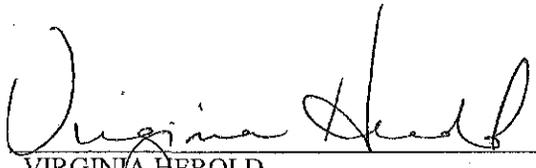
1 dangerous drugs, including but not limited to Code section 4059 and Health and Safety Code
2 sections 11171 and 11173, subdivision (a), in that Respondent unlawfully administered, obtained,
3 and possessed controlled substances and dangerous drugs, as set forth in paragraphs 12 through
4 15, above.

5 **PRAYER**

6 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
7 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

- 8 1. Revoking or suspending Pharmacy Technician Registration Number TCH 97382,
9 issued to Elizabeth Suzanne Harris;
- 10 2. Ordering Elizabeth Suzanne Harris to pay the Board of Pharmacy the reasonable costs
11 of the investigation and enforcement of this case, pursuant to Business and Professions Code
12 section 125.3; and
- 13 3. Taking such other and further action as deemed necessary and proper.

14
15
16 DATED: 11/8/12


17 VIRGINIA HEROLD
18 Executive Officer
19 Board of Pharmacy
20 Department of Consumer Affairs
21 State of California
22 Complainant

23
24
25
26
27
28 SF2012401676/accusation.rtf